

The cited reference is the inventors' own work. The inventors in the present application, Drs. Stahl and Yancopoulos, are also two of the three inventors of the cited reference. The third inventor of the '099 patent, Dr. Economides, contributed to the specific fusion proteins claimed in the '099 patent. The present applicants are inventors of the genus claims herein. All of the inventors in both instances were and remain under a common duty to assign to Regeneron Pharmaceuticals, Inc.

As Applicants stated above, having the fusion proteins do not necessarily require possession of the nucleic acids. While clearly nucleic acids of the present application can encode fusion proteins, the inventions are patentably distinct. It would be exceedingly difficult for one, from the fusion proteins disclosed in the '099 patent, to determine the specific nucleic acids of the present invention.

However, in addition to the above, the nucleic acids of the present invention are not taught or suggested by the '099 patent. The nucleic acids of the present invention encode fusion proteins which contain on a single molecule the three components specified in the claims. These three components are:

- (a) a cytokine binding portion of the extracellular domain of the specificity determining component of a cytokine receptor,
- (b) a cytokine binding portion of the extracellular domain of the signal transducing component of a cytokine receptor, and
- (c) a multimerizing component.

This is not taught in the '099 patent, which discloses a molecule wherein an immunoglobulin derived domain forms a complex between the extracellular domain of the specificity determining component and the extracellular